



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Christine Sherwood
Christine Sherwood

Applicant : Mary K. Boncutter, et al. Confirmation No. 9358
Application No. : 10/790,375
Filed : February 26, 2004
Title : WATER-RESISTANT AND FLOATABLE FOOTWEAR AND METHOD
OF MANUFACTURE THERE FOR

Grp./Div. : 3728
Examiner : John T. Kavanaugh

Docket No. : 52052/MEG/R541

INFORMATION DISCLOSURE STATEMENT
37 CFR § 1.97(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Post Office Box 7068
Pasadena, CA 91109-7068
November 8, 2004

Commissioner:

In compliance with the duty of disclosure under 37 CFR §§ 1.56, 1.97 and 1.98, and in accordance with the provisions in the Manual of Patent Examining Procedure §§ 609 and 707.05(b), enclosed is FORM PTO/SB/08A/B listing the references that are known to applicant. This filing is timely because it is made during one of the periods described in 37 CFR § 1.97(b).

Applicant brings the following information to the attention of the Examiner.

1) The parent of the present application, Serial No. 10/264,015, now U.S. Patent No. 6,766,598, is involved in a patent infringement action filed in the United States District Court of the Central District of California, entitled R & S Trading Company, Inc. v. Wal-Mart Stores, Inc. and BCNY International, Inc., Civil Action No. SACV04-894 GLT (RCx). The Complaint, Answers to the Complaint, Answer to the Counter Claim and Order Staying Action Pending Reexamination are listed in the Attachment and copies of these documents are attached. The

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civil action is presently stayed pending reexamination of the '598 patent by the U.S. Patent and Trademark Office.


2) The '598 patent is also presently the subject of reexamination in the U.S. Patent and Trademark Office. The Request for Reexamination, the accompanying exhibits, and the Order granting Reexamination are listed in the Attachment and copies of these documents are attached.

The Statement of the Patent Owner under Rule 530 is due on November 27, 2004.

It is respectfully requested that the listed references be considered in the examination of this application and identified on the list of references cited on the patent issuing for this application. Applicant also requests that an initialed copy of FORM PTO/SB/08A/B be entered in the application file and returned to applicant with the next communication from the Office in accordance with MPEP § 609.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By 

Mark Garscia
Reg. No. 31,953
626/795-9900

MEG/cks

Enclosures: Copy of IDS
Form PTO/SB/08A/B

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INFORMATION DISCLOSURE

STATEMENT BY APPLICANT

(use as many sheets as necessary)

Attorney Docket Number

52052/MEG/R541

Application Number

10/790,375

Filing Date

February 26, 2004

Applicant(s)

Mary K. Boncutter, et al.

Group Art Unit

3728

Examiner Name

John T. Kavanaugh

U.S. PATENT DOCUMENTS

EXAMINER INITIALS	Cite No. ¹	DOCUMENT NUMBER Number - Kind Code ² (If Known)	PUBLICATION DATE MM-DD-YYYY	NAME OF PATENTEE
		4,402,893	09-06-1983	Kitamura et al.
		4,734,323	03-29-1988	Sato et al.
		5,282,326	02-01-1994	Schroer, Jr. et al.
		5,658,980	08-19-1997	Ichikawa
		6,766,598	07-27-2004	Boncutter et al.

FOREIGN PATENT DOCUMENTS

EXAMINER INITIALS	Cite No. ¹	Foreign Patent Document Country Code ³ - Number ⁴ - Kind Code ⁵ (If Known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	T ⁶ (✓)

OTHER DOCUMENTS

EXAMINER INITIALS	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article, title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.

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EXAMINER
SIGNATURE

DATE
CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at www.pto.gov or MPEP 901.4. ³Enter Office that issued the document, by the two-letter code (WIPO standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶Applicant is to place a check mark here if English Language Translation is attached.

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**ATTACHMENT TO INFORMATION DISCLOSURE STATEMENT
OF DOCUMENTS TO BE CONSIDERED BY
THE EXAMINER BUT NOT TO BE PRINTED ON THE PATENT**

Commissioner for Patents
P.O. Box 1450
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Commissioner:


Request for Ex Parte Reexamination of U.S. Patent No. 6,766,598, issued July 27, 2004, patentee - Mary Boncutter (Application No. 10/264,015, filed October 3, 2002), August 12, 2004, including Exhibits A-L
40 CFR-Chapter 1-Part 414.40, Pages 1-5, Applicability; description of the thermoplastic resins subcategory (Exhibit D of Request for Ex Parte Reexamination)
Rex Durometers Comparison Chart and technical notes of Shore A and D Durometer, Rex Gauge Company, Inc., Copyright 2001, pages 1-5 (Exhibit E of Request for Ex Parte Reexamination)
Monarch Rubber Company Products sheet, pages 1-2 (Exhibit F of Request for Ex Parte Reexamination)
British Plastics Federation, Vinyls Group, pages 1-9 (Exhibit G of Request for Ex Parte Reexamination)
GE Polymerland, North America, Technical Facts/Technical tips & Case Studies, pages 1-2 (Exhibit H of Request for Ex Parte Reexamination)

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Huey Long Rubber Co., Ltd, pages 1-3 (Exhibit H of Request for Ex Parte Reexamination)
Monarch Rubber Company, Footwear, Rubber based, pages 1-3 (Exhibit H of Request for Ex Parte Reexamination)
EVA-Glory Industrial Co., Ltd., pages 1-13 (Exhibit H of Request for Ex Parte Reexamination)
Foam Rubber City, Closed Cell Foam, pages 1-2 (Exhibit I of Request for Ex Parte Reexamination)
American Micro Inc., Polyethylene Foam, pages 1-4 (Exhibit I of Request for Ex Parte Reexamination)
Preliminary amendment filed June 3, 2003 for application No. 10/264,015, pages 2-4 (Exhibit K of Request for Ex Parte Reexamination)
Amendment filed November 5, 2003 for application No. 10/264,015, pages 5-8 (Exhibit L of Request for Ex Parte Reexamination)
Summons and Complaint for Patent Infringement, R & S Trading Company, Inc. vs. Wal-Mart Stores, Inc. and BCNY International, Inc., Case No. SACV04-894 GLT (RCx), pages 1-4, including Exhibit A (U.S. Patent No. 6,766,598, 07-27-2004, Boncutter et al.)
Defendant BCNY International, Inc.'s Answer and Affirmative Defenses to Complaint; Demand for Jury Trial, Case No. SACV04-894 GLT (RCx), 18 sheets
Wal-Mart Stores, Inc.'s Answer and Affirmative Defenses to Complaint; Counterclaim for Declaratory Judgment of Invalidity and Non-Infringement; Demand for Jury Trial, Case No. SACV04-0894 GLT (RCx), 10 sheets
R & S Trading Company, Inc.'s Answer to the Counterclaim of Wal-Mart Stores, Inc., Case No. SACV-04-894 GLT (RCx), 4 sheets
Order Staying Action Pending Reexamination of the Patent-in-Suit, Case No. SACV-04-0894 GLT (RCx), 3 sheets

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By 

Mark Garscia
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MEG/cks

Enclosures

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